

SHANNON LISS-RIORDAN (SBN 310719)

(sliss@llrlaw.com)

JANE FARRELL (SBN 333779)

(jfarrell@llrlaw.com)

LICHTEN & LISS-RIORDAN, P.C.

729 Boylston Street, Suite 2000

Boston, MA 02116

Telephone: (617) 994-5800

Facsimile: (617) 994-5801

*Attorneys for Plaintiffs White Coat
Captioning, LLC, YES Consulting, LLC,
Autumn Communications, Inc.,
Business Training Works, Inc., Measuring
Usability LLC, and Foster & Forge Ltd. on
behalf of themselves and all others
similarly situated*

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

WHITE COAT CAPTIONING, LLC, YES
CONSULTING, LLC, AUTUMN
COMMUNICATIONS, INC., BUSINESS TRAINING
WORKS, INC., MEASURING USABILITY LLC, AND
FOSTER & FORGE LTD. on behalf of themselves
and all others similarly situated,

Plaintiffs,

v.

X CORP. (FORMERLY KNOWN AS TWITTER, INC.)

Defendant.

Case No. 3:23-cv-01594-SK

**SECOND AMENDED CLASS ACTION
COMPLAINT**

1. BREACH OF CONTRACT
2. QUANTUM MERUIT
3. ACCOUNT STATED
4. OPEN BOOK ACCOUNT

I. INTRODUCTION

1. Plaintiffs White Coat Captioning, LLC, YES Consulting, LLC, Autumn Communications, Inc., Business Training Works, Inc., Measuring Usability LLC, and Foster & Forge Ltd., individually and on behalf of all others similarly situated, file this Class Action Complaint against Defendant X Corp., formerly known as Twitter, Inc., and hereinafter referred to as “Twitter” for breach of contract.

2. Since the company’s purchase by Elon Musk in late October 2022, Twitter has slashed spending – by laying off most of its workforce and stopping payment to vendors for services rendered. Indeed, more than two dozen vendors, contractors, and property owners with whom Twitter holds leases across the country have already sued Twitter individually for breach of contract. See, e.g., Twitter Vendor Non-Payment, PLAINSITE, <https://www.plainsite.org/tags/twitter-vendor-nonpayment/>.

3. According to news reports, in response to concerns about not paying vendors who provided services to or performed work for Twitter, Musk told Twitter employees, repeatedly, to “let them sue”. See, e.g., Sawdah Bhaimiya, Elon Musk frequently told Twitter staff ‘let them sue’ in response to vendors and landlords complaining about unpaid bills, report says, BUSINESS INSIDER (March 17, 2023), <https://www.businessinsider.com/elon-musk-let-them-sue-response-twitters-unpaid-pills-report-2023-3>.

4. Plaintiff White Coat Captioning, LLC contracted with Twitter to provide professional real-time captioning services throughout 2022. In mid-November 2022, White Coat Captioning, LLC’s President and CEO Norma Miller contacted Twitter about several overdue invoices totaling approximately \$42,000. Twitter acknowledged receiving and approving the invoices but has yet to issue payment.

5. Plaintiff YES Consulting, LLC contracted with Twitter to provide leadership training for much of 2022. Twitter owes YES Consulting approximately \$49,000 for services

1 rendered. While Twitter received and approved YES Consulting's invoices, Twitter has not told
2 its President and CEO Yvonne Ellison-Sandler if or when it plans to issue payment.

3 6. Plaintiff Autumn Communications, Inc. contracted with Twitter to provide public
4 relations services from September 2022 to September 2023, at a rate of \$20,000 per month. On
5 December 21, 2022, Twitter represented that it would not pay Autumn Communications for
6 completed services and for which Twitter owed Autumn Communications approximately
7 \$60,000.

8 7. Plaintiff Business Training Works, Inc. contracted with Twitter to provide virtual
9 writing skills training course from February 2022 through December 2022. In December 2022,
10 Business Training Works contacted Twitter about five overdue invoices totaling \$30,000.
11 Twitter received and approved the invoices but has yet to issue payment.

12 8. Plaintiff Measuring Usability LLC contracted with Twitter to conduct a user
13 experience benchmark of the Twitter app. Measuring Usability LLC has yet to receive payment
14 for an invoice it submitted for work performed between June and August 2022, totaling
15 approximately \$34,000.

16 9. Plaintiff Foster & Forge Ltd. contracted with Twitter to provide eLearning
17 services for all of 2022. Foster & Forge submitted three invoices in October and November of
18 2022, all of which were received and approved in Twitter's payment system, but none of which
19 Twitter has paid. These invoices total approximately \$34,000.

20 10. Plaintiffs are concerned that Twitter has no intention of paying the amounts owed
21 to them under their contracts and by law.

22 11. To ensure Twitter complies with the law, Plaintiffs bring this breach of contract
23 claim on behalf of themselves and all similarly situated vendors and contractors who executed
24 contracts with Twitter, rendered services, and have outstanding or overdue invoices.

25
26 **II. PARTIES**

1 21. This Court has personal jurisdiction over this matter because Twitter is
2 headquartered in this District and conducts substantial business operations in this District.
3

4 **IV. STATEMENT OF FACTS**
5

6 22. Since the company's purchase by Elon Musk in late October 2022, Twitter has
7 slashed spending – by laying off most of its workforce and stopping payment to vendors for
8 services rendered. More than two dozen vendors, contractors, and property owners with whom
9 Twitter holds leases across the country have already sued Twitter individually for breach of
10 contract. See, e.g., Twitter Vendor Non-Payment, PLAINSITE,
11 <https://www.plainsite.org/tags/twitter-vendor-nonpayment/>

12 23. These vendors and contractors include White Coat Captioning, which provides
13 professional captioning services for events, conferences, and classes; YES Consulting, a small
14 business providing leadership coaching and consulting for technology companies;; Autumn
15 Communications, which provides public relations services; Business Training Works, a boutique
16 skills-training company; Measuring Usability LLC (hereinafter “MeasuringU”), which measures
17 user experience; and Foster & Forge, which provides eLearning development solutions.

18 24. Twitter and White Coat Captioning entered into a written Independent Contractor
19 Agreement, which was effective as of July 28, 2019.

20 25. In March 2022, Twitter and White Coat Captioning entered into a written contract
21 titled Statement of Work. The Statement of Work is governed by the terms and conditions in the
22 Independent Contractor Agreement.

23 26. Under the terms of the Statement of Work, White Coat Captioning would provide
24 Twitter with real-time captioning services for the duration of 2022. Specifically, White Coat
25 Captioning would provide reasonable accommodations for Twitter's deaf and hard of hearing
26 employees, as well as support for Twitter employees globally, many of whom used captioning
27

1 because English was not their first language or they had other audio processing needs for which
2 they used real-time captioning.

3 27. The terms of the Statement of Work provided the total fees billed to Twitter
4 would not exceed \$200,000 without Twitter's prior written approval. In July 2022, White Coat
5 Captioning received written approval from Twitter to exceed the \$200,000 maximum. In 2022,
6 White Coat Captioning ultimately provided services totaling approximately \$290,000.
7

8 28. White Coat Captioning has fully performed all of its obligations under the
9 Statement of Work and Independent Contractor Agreement.

10 29. Under the Statement of Work and Independent Contractor Agreement, payments
11 were due 45 days from receipt of an "undisputed" invoice.

12 30. In mid-November 2022, White Coat Captioning contacted Twitter about the status
13 of some overdue and pending invoices. Twitter reassured White Coat Captioning it had
14 processed and would pay these invoices, but it never did.

15 31. White Coat Captioning made repeated attempts to secure these and other overdue,
16 approved payments from Twitter. In January 2023, Twitter attributed the delay to the need for
17 "additional review" of the invoices, despite having already approved them. Twitter has not told
18 White Coat Captioning when or if it will issue payment.

19 32. As of the date of this filing, Twitter owes White Coat Captioning a total of more
20 than \$41,000 for ten undisputed, approved, and overdue invoices.

21 33. Twitter and YES Consulting entered into a written Master Services Agreement,
22 which was effective as of February 23, 2022.

23 34. In March 2022, Twitter and YES Consulting entered into a written contract titled
24 Statement of Work. The Statement of Work is governed by the terms and conditions in the
25 Master Services Agreement.
26
27

1 35. Under the terms of the Statement of Work, YES Consulting would provide
2 leadership training to Twitter employees through the end of 2022.

3 36. YES Consulting has performed all of its obligations under the Statement of Work
4 and Master Services Agreement.

5 37. Under the Statement of Work and Master Services Agreement, payments were
6 due 60 days from receipt of an undisputed invoice.

7 38. Twitter approved but has not paid invoices for services YES Consulting provided
8 between August 27 and November 29, 2022. YES Consulting has made repeated attempts to
9 secure these overdue payments from Twitter.

10 39. As of the date of this filing, Twitter owes YES Consulting approximately \$49,000
11 for three undisputed, approved, and overdue invoices.

12 40. Twitter and Autumn Communications entered into a written Public Relations
13 Services Agreement, which was effective as of September 23, 2022.

14 41. At the same time, Twitter and Autumn Communications entered into a written
15 contract titled Statement of Work. The Statement of Work is governed by the terms and
16 conditions in the Master Services Agreement.

17 42. Under the terms of the Statement of Work, Autumn Communications would
18 provide public relations services from September 23, 2022, through September 23, 2023, at a rate
19 of approximately \$20,000 per month (plus or minus approved expenses).

20 43. Autumn Communications has performed all of its obligations under the Statement
21 of Work and Public Relations Services Agreement.

22 44. Under the Statement of Work and Public Relations Services Agreement,
23 payments were due 45 from receipt of an undisputed invoice.
24
25
26
27

1 45. Twitter has not paid invoices for services Autumn Communications provided
2 between September 23, 2022, and late December 2022. Autumn Communications has made
3 repeated attempts to secure these overdue payments from Twitter.

4 46. As of the date of this filing, Twitter owes Autumn Communications
5 approximately \$60,000 for undisputed invoices.

6 47. Twitter and Business Training Works entered into a written Master Services
7 Agreement, which was effective as of January 12, 2021.

8 48. In March 2022, Twitter and Business Training Works entered into a written
9 contract titled Statement of Work #3. The Statement of Work is governed by the terms and
10 conditions in the Master Services Agreement.

11 49. Under the terms of the Statement of Work #3, Business Training Works would
12 provide narrative writing training through December 31, 2022.

13 50. Business Training Works, Inc. has performed all of its obligations under the
14 Statement of Work and Master Services Agreement.

15 51. Under the Statement of Work and Master Services Agreement, payments were
16 due 60 days from receipt of an undisputed invoice.

17 52. Twitter approved but has not paid invoices for services Business Training Works
18 provided between February 2022 and November 2022. Business Training Works has made
19 repeated attempts to secure these overdue payments from Twitter.

20 53. As of the date of this filing, Twitter owes Business Training Works \$30,000 for
21 five undisputed, approved, and overdue invoices.

22 54. Twitter and MeasuringU entered into a written Master Services Agreement, which
23 was effective as of May 23, 2022.

1 55. In June 2022, Twitter and MeasuringU entered into a written contract titled
2 Statement of Work No. 1. The Statement of Work is governed by the terms and conditions in the
3 Master Services Agreement.

4 56. Under the terms of the Statement of Work, MeasuringU would provide a Twitter
5 usability benchmark with a servicing period of June 6, 2022 through August 2022.

6 57. MeasuringU has performed all of its obligations under the Statement of Work and
7 Master Services Agreement.

8 58. Under the Statement of Work and Master Services Agreement, payments were
9 due 60 days from receipt of an invoice.

10 59. Twitter has not paid an invoice for services MeasuringU provided from June 2022
11 through August 2022. MeasuringU has made repeated attempts to secure this overdue payment
12 from Twitter.

13 60. As of the date of this filing, Twitter owes MeasuringU approximately \$34,000 for
14 one undisputed and overdue invoice.

15 61. Twitter and Foster & Forge entered into a Master Services Agreement, which was
16 effective as of October 8, 2019. The parties signed a third amendment to the Master Services
17 agreement on February 7, 2022.

18 62. In January 2022, Twitter and Foster & Forge entered into a written contract titled
19 Statement of Work #5. In April 2022, Twitter and Foster & Forge entered into Statement of
20 Work #6. Both Statements of Work are governed by the terms and conditions in the Master
21 Services Agreement.

22 63. Under the terms of the Statements of Work #5 and #6, Foster & Forge would
23 provide eLearning services through 2022.

24 64. Foster & Forge has performed all of its obligations under the Statements of Work
25 and Master Services Agreement.

65. Under the Statements of Work and Master Services Agreement, payments were due 60 days from receipt of an undisputed invoice.

66. Twitter approved but has not paid invoices for services Foster & Forge provided from January through November 2022. Foster & Forge has made repeated attempts to secure these overdue payments from Twitter.

67. As of the date of this filing, Twitter owes Foster & Forge approximately \$34,000 for three undisputed, approved, and overdue invoices.

68. Plaintiffs are aware of at least two dozen other vendors and contractors who have asserted similar or identical breach of contract claims against Twitter in cases involving similar facts.

69. Plaintiffs are also aware of even more vendors and contractors who, like Plaintiffs, have not been paid by Twitter under the terms of their contracts and who would have common questions of law and fact if they were to bring their breach of contract claims in court. Moreover, many of these vendors and contractors are businesses without the resources, time, and money to litigate these claims on their own. Last, even if these vendors and contractors marshalled the resources to file a lawsuit, joinder of these parties would be impracticable.

70. In response to internal concerns over Twitter's refusal to pay for services provided, CEO Elon Musk is reported to have said, repeatedly, "Let them sue." See Sawdah Bhaimiya, Elon Musk frequently told Twitter staff 'let them sue' in response to vendors and landlords complaining about unpaid bills, report says, BUSINESS INSIDER (March 17, 2023), <https://www.businessinsider.com/elon-musk-let-them-sue-response-twitters-unpaid-pills-report-2023-3>.

71. Plaintiffs bring this complaint to ensure Twitter compensates vendors and contractors for whom it has not paid outstanding, undisputed invoices, such as White Coat

1 Captioning, YES Consulting, Autumn Communications, Business Training Works, MeasuringU,
2 and Foster & Forge. Plaintiffs can and will fairly and adequately protect the interests of the class.
3

4 **COUNT I**
5 **Breach of Contract**

6 72. Plaintiffs hereby incorporate by reference and reallege each and all of the
7 allegations set forth above in Paragraphs 1 through 71, inclusive, of this Complaint as though
8 fully set forth and alleged herein.

9 73. At all times material herein, Plaintiffs and similarly situated businesses have been
10 entitled to the rights, protections, and benefits of the Scope of Work, Master Services
11 Agreement, Independent Contractor Agreement, Public Relations Services Agreement, and/or
12 other contracts they entered into with Twitter.

13 74. Plaintiffs have fully performed all obligations set out under the terms of their
14 contracts with Twitter and Twitter has never disputed any invoices it received from Plaintiffs.

15 75. Despite Plaintiffs' repeated demands to Twitter for payment, Twitter has breached
16 its obligations under the terms of its contracts with Plaintiffs by failing and refusing to pay them
17 for services provided under their contracts' terms.

18 76. As a direct and proximate result of Twitter's above-alleged breach of these
19 contracts with Plaintiffs, Plaintiffs have suffered damages in the amounts described above, plus
20 interest.
21

22 **COUNT II**
23 **Quantum Meruit**

24 77. Plaintiffs hereby incorporate by reference and reallege each and all of the
25 allegations set forth above in Paragraphs 1 through 71, inclusive, of this Complaint as though
26 fully set forth and alleged herein.

27 78. At all times material herein, Plaintiffs and similarly situated businesses have fully
28

1 performed all obligations set out under the terms of their contracts and agreements with Twitter,
2 and thus conferred a benefit on Twitter.

3 79. Plaintiffs rendered these services at Twitter's request and for a pre-determined,
4 fair, and reasonable value,.

5 80. Twitter has not paid any portion of the invoices submitted by Plaintiffs, and there
6 is now due damages in the amount described above, plus interest.
7

8 **COUNT III**
9 **Account Stated**

10 81. Plaintiffs hereby incorporate by reference and reallege each and all of the
11 allegations set forth above in Paragraphs 1 through 71, inclusive, of this Complaint as though
12 fully set forth and alleged herein.

13 82. As described above, accounts were stated in writing as between Plaintiffs and
14 Twitter, in various invoices and in Twitter's vendor payment approval system, for the sums due
15 and owing from Twitter to Plaintiffs that Twitter had agreed to pay Plaintiffs.

16 83. Twitter has not paid any portion of the invoices submitted by Plaintiffs or
17 invoices marked as approved in Twitter's vendor payment approval system, and there is now due
18 damages in the amount described above, plus interest.
19

20 **COUNT IV**
21 **Open Book Account**

22 84. Plaintiffs hereby incorporate by reference and reallege each and all of the
23 allegations set forth above in Paragraphs 1 through 71, inclusive, of this Complaint as though
24 fully set forth and alleged herein.

25 85. As described above, Plaintiffs have kept accounts of the debits and credits
26 involved in their transactions with Twitter, and Twitter has become indebted to Plaintiffs for the
27 amounts detailed above for services and work rendered by Plaintiffs at Twitter's request.
28

1 86. Twitter has not paid any portion of the invoices submitted by Plaintiffs or
2 invoices marked as approved in Twitter's vendor payment approval system, and there is now due
3 damages in the amount described above, plus interest.
4

5
6 **JURY DEMAND**

7 Plaintiffs request a trial by jury on their claims.
8

9 WHEREFORE, Plaintiffs request that this Court enter the following relief:

- 10 a. Certify a class action and appoint Plaintiffs and their counsel to represent a class of
11 Twitter vendors and contractors who provided services to Twitter, submitted
12 invoice(s) for these services to Twitter, whose invoice(s) Twitter did not dispute and
13 are past due, and who have not received payment from Twitter for these services.
- 14 b. Award compensatory damages, including all payments owed for goods or services
15 provided or owed under the terms of the contract, in an amount according to proof;
- 16 c. Award pre- and post-judgment interest;
- 17 d. Award any other relief to which the Plaintiffs may be entitled.
18

19 Respectfully submitted,

20 WHITE COAT CAPTIONING, LLC, YES
21 CONSULTING, LLC, AUTUMN
22 COMMUNICATIONS, INC., BUSINESS
23 TRAINING WORKS, INC., MEASURING
24 USABILITY LLC, AND FOSTER AND FORGE
25 LTD. on behalf of themselves and all others
26 similarly situated,

27 By their attorneys,

28 /s/ Shannon Liss-Riordan
 Shannon Liss-Riordan, SBN 310719

Jane Farrell, SBN 333779
LICHTEN & LISS-RIORDAN, P.C.
729 Boylston Street, Suite 2000
Boston, MA 02116
(617) 994-5800
sliss@llrlaw.com
jfarrell@llrlaw.com

Dated: October 31, 2023

CERTIFICATE OF SERVICE

I, Shannon Liss-Riordan, hereby certify that a true and accurate copy of this document was served on counsel for Defendant Twitter, Inc. via the CM/ECF system on October 31, 2023.

/s/ Shannon Liss-Riordan
Shannon Liss-Riordan